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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 21, 2002

APPLICATION OF

WHITE OAK POWER COMPANY

CASE NO. PUE-2002-00305

For authority to construct
and operate an electric generating
facility

ORDER FOR NOTICE AND HEARING

On May 9, 2002, White Oak Power Company, LLC ("White Oak" or "Company"), filed with the State Corporation Commission ("Commission") its application for a certificate of public convenience and necessity to construct and operate an electric generating facility pursuant to §§ 56-46.1 and 56-580 D of the Code of Virginia.

White Oak proposes to construct a 680 MW peaking, electrical power generation facility ("facility") and related piping at a site in Dry Fork, Virginia (within Pittsylvania County), to commence commercial operations in the second quarter of 2004. The facility, as proposed, will consist of four simple-cycle combustion turbine units ("CT"), each with a nameplate rating of 170 MW. Although the primary fuel for the project will be natural gas, the Company seeks permission to burn fuel oil low in sulfur and nitrogen as a back-up fuel source whenever (i) interruptible natural gas transportation is not available, or (ii) the delivered price of gas is greater than fuel oil. The Company has committed in its application to limit its total annual operating hours to 10,000 hours on natural gas (an average of 2,500 hours per CT) and 2,000 hours on fuel oil (an average of 500 hours per CT).

The Company also states in its application that the facility's principal structures will consist of the turbines, a control room, parking, domestic water supply and on-site sanitary waste disposal, switch yards, electrical bus bars, natural gas supply lines and headers, and a fuel oil

storage tank with an aggregate capacity of approximately two million gallons. The Company estimates the cost of the Facility to be approximately \$260 million.

The facility is proposed to be sited on a 126.3 acre site in Pittsylvania County, Virginia. The site is described as generally located north of State Road 718 and off State Road 1047 within the Chatham-Blairs Magisterial District, and recorded as Parcel No. 11-10-1D in the Pittsylvania County tax records. According to the application, the site is located within a mixed rural and suburban residential and agricultural area. It consists of tilled ground and is undeveloped with the exception of an existing power transmission line running roughly north-south across the westerly portion of the site. The Company presently has a purchase option to acquire the site proposed for this facility.

The Company's application also describes the site's proximity to electric transmission facilities, water, and gas pipelines. The application states that the facility will be connected with an on-site American Electric Power ("AEP") aerial transmission line and then connect directly to AEP's East Danville substation via a single circuit transmission line. The line will be either 138 kV or 230 kV contingent upon the outcome of a facilities study being conducted by AEP. White Oak states that it will pay for all the necessary reinforcements identified by the Study.

Information contained in the Company's application indicates that the proposed generation facility will require approximately 92,000 gallons of water per day during gas operations and 188,000 gallons of water per day during oil operations. The Pittsylvania Public Service Authority will supply potable water to the project that will be further treated on site prior to industrial use. The Company states that process wastewater generated at the site will be stored in tanks and shipped off-site for disposal. Domestic wastewater will be discharged to an on-site septic system for which the Company will obtain a permit from the State Health Department.

Concerning the supply of natural gas, the facility's primary fuel source, the application states that the project will obtain natural gas from the natural gas producing regions of the Gulf Coast, in addition to sources located in Canada, Appalachia, and the mid-continent. Gas delivery will be accomplished via the Transco interstate pipeline delivery system. The Company states

that it will create a new tap into the Transco pipeline approximately 3,000 feet north by northwest of the project boundary. The lateral pipeline will run within the existing AEP right-of-way to its point of interconnection with the Transco transmission line. Neither the site nor any immediately surrounding properties are currently interconnected to a natural gas local distribution company. However, the site does fall within the service territory of Columbia Gas of Virginia.

White Oak states that it has obtained local zoning approvals for the project with the issuance of a March 15, 2001, Final Order from Pittsylvania County, confirming the rezoning of the project site from M-1 (Industrial District, Light Industry) to M-2 (Industrial District, Heavy Industry) use. The application goes on to point out that since power generation facilities are allowed by right in areas zoned M-2 in Pittsylvania County, no further zoning or land use approvals are required.

With respect to air emissions, the Company emphasizes in its application that Best Available Control Technology, low sulfur natural gas, and fuel oil low in sulfur and nitrogen will be used at the facility, which will limit the air emissions from the generating unit. To minimize NO_x emissions, the facility will employ dry low NO_x combustors together with a state-of-the art emissions reduction technology, to achieve a maximum 9 parts per million (ppm) concentration of NO_x when natural gas is being used. General Electric, the manufacturer of the proposed combustion turbines, guarantees the NO_x emissions performance. When fuel oil is being used, water will be injected into the burner to reduce emissions of thermal NO_x to a maximum 42 ppm (plus fuel bound nitrogen). With respect to emissions dispersion, the Company states that dispersion modeling of the proposed emissions of this facility indicates that the maximum impact on ambient concentrations of NO_x, as well as other components, will be below significant impact levels, as defined by state and federal air regulations. With respect to noise control, White Oak states that technology employed by the project will result in no vibration or audible noise adversely affecting any permanent residence.

The Company notes in its application that site preparation is slated to begin on October 1, 2002, approximately three weeks prior to the October 24, 2002, public hearing date established by this Order. Although the Company has not requested authorization for site preparation, we would nevertheless note that it may commence preliminary site preparation and related activities in advance of receiving Commission approval for the facility. We expect the Company to limit its activities to those permitted by federal, state and local law. In addition, no construction of permanent facilities can be undertaken without further Commission approval.

Finally, the application states that construction of the plant is not contrary to the public interest. In that vein, the application asserts that the proposed facility will provide economic benefits and opportunities to Pittsylvania County—principally in the form of local property tax revenues (estimated at approximately \$1.2 million annually). In addition, the project is said to result directly in the temporary employment of approximately 200 people during the construction phase. The Company will employ an estimated 7-10 people on a permanent basis during operations. Additionally, the Company will pay the cost of interconnection from the site to the most feasible point of interconnection on the Pittsylvania County water supply system; therefore, there will be no adverse impact on other customers of the Pittsylvania County Public Service Authority.

The Company further asserts that projects like this proposed Facility will help increase Virginia's energy supply. According to the Company's application, the construction and operation of the facility will foster competition at both the wholesale and retail level, and contribute to lower costs for ratepayers. The application goes on to state that the proposed facility will not only help meet increasing demand but will also help to spur competition in the marketplace.

The Commission finds that the application should be docketed. We further find that notice of this application should be given to the public and that interested persons should have an opportunity to comment or to participate in this matter. We also find that the matter should be assigned to a hearing examiner and that a public hearing should be held on the application.

In addition, we note that, effective July 1, 2002, Chapter 483 of the Acts of Assembly, (2002 Va. Acts 483 ("Chapter 483")), modifies the statutory scheme under which we will give consideration to the environmental impacts of this application. Accordingly, this case will be decided under the new statutory standards. Chapter 483, among other things, establishes authority in the Department of Environmental Quality ("DEQ") to conduct cumulative impact analyses and requires the Commission to defer to other permit- and license-issuing governmental entities as to matters within their authorities, and it is not our intent, nor ever has been, to duplicate activities already undertaken by other governmental entities. Chapter 483 also requires the DEQ to provide certain information to the Commission attendant to the DEQ's review of this application. We direct the Commission's Staff to confer with the DEQ regarding this application to facilitate the timely receipt of such information from the DEQ. We recognize that modifications to the procedural schedule may be required, for example, to permit the DEQ to complete its analysis so that the Commission can fulfill its obligations under Chapter 483.

Accordingly, IT IS ORDERED THAT:

(1) The Company's application be docketed as Case No. PUE-2002-00305, and all associated papers be filed therein.

(2) A public hearing be held on October 24, 2002, at 10:00 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public and to receive evidence on the application. Any person not participating as a respondent as provided in Ordering Paragraph (5) below, may give oral testimony concerning the application as a public witness at the October 24 public hearing. Public witnesses desiring to make statements at the public hearing concerning this application need only appear in the Commission's second floor courtroom in the Tyler Building at the address set forth above prior to 10 a.m. on the day of the hearing and sign up to speak.

(3) As provided by § 12.1-31 of the Code of Virginia and the Commission's Rules of Practice and Procedure, 5 VAC 5-20-120, *Procedure before hearing examiners*, a hearing

examiner be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

(4) On or before July 9, 2002, the Company may file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and fifteen (15) copies of any additional testimony and exhibits by which it expects to establish its case.

(5) On or before July 22, 2002, any person desiring to participate in this proceeding as a respondent shall file with the Clerk at the address set out in ordering paragraph (4) an original and fifteen (15) copies of a notice of participation as a respondent, as required by the Commission's Rules of Practice and Procedure, 5 VAC 5-20-80 B, *Participation as a respondent*, and shall serve a copy on counsel to the Company, Patrick O'Hare, Esq., Reed Smith, LLP, Riverfront Plaza, West Tower, 901 East Byrd Street, 17th Floor, Richmond, Virginia 23219. The notice of participation shall be filed and served as required by the Commission's Rules of Practice and Procedure, 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-150, *Copies and format*. Any organization, corporation, or government entity participating as a respondent must be represented by counsel as required by the Rules of Practice, 5 VAC 5-20-30, *Counsel*.

(6) Within five (5) business days of receipt of a notice of participation as a respondent, the Company shall serve upon each respondent a copy of this Order, a copy of the application, and all materials filed with the Commission, unless these materials have already been provided to the respondent.

(7) On or before August 20, 2002, each respondent may file with the Clerk an original and fifteen (15) copies of any testimony and exhibits by which it expects to establish its case and shall serve copies of the testimony and exhibits on counsel to the Company and on all other parties. The respondent shall comply with the Commission's Rules of Practice and Procedure, 5 VAC 5-20-140, *Filing and service*, 5 VAC 5-20-150, *Copies and format*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*.

(8) The Commission Staff shall investigate the Company's application and, on or before September 20, 2002, shall file with the Clerk of the Commission an original and fifteen (15)

copies of the prepared testimony and exhibits the Staff intends to present at the hearing. The Staff shall contemporaneously serve copies of such testimony and exhibits on the applicant and respondents in this matter.

(9) On or before October 11, 2002, the Company shall file with the Clerk of the Commission an original and fifteen (15) copies of any testimony and exhibits that it expects to offer in rebuttal to direct testimony and exhibits of the Commission Staff and respondent.

(10) The Commission's Rules of Practice and Procedure, 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: the Applicant and respondents shall respond to written interrogatories or data requests within ten (10) calendar days after the receipt of such requests. Except as so modified herein, discovery and hearing preparation procedures shall be in accordance with Part IV of the Commission's Rules of Practice and Procedure.

(11) Forthwith upon receipt of this Order and thereafter, the Company shall make available for inspection during regular business hours copies of its application, testimony, exhibits, this Order, and all other materials filed in this proceeding at the Pittsylvania County Administrator's Office, 21 North Main Street, Moses Building, Chatham, Virginia. The Company shall also make available copies of its application and other materials to members of the public who may obtain them, at no charge, by making a request in writing for the same to counsel for the Company, Patrick O'Hare, Esq., Reed Smith, LLP, Riverfront Plaza, West Tower, 901 East Byrd Street, 17th Floor, Richmond, Virginia 23219.

(12) On or before July 9, 2002, the Company shall publish the following notice and a sketch map showing the location of the proposed facilities twice as display advertising (not classified) in a newspaper or newspapers of general circulation in Pittsylvania County:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
WHITE OAK POWER COMPANY, LLC,
FOR APPROVAL OF GENERATION FACILITIES IN
PITTSYLVANIA COUNTY
STATE CORPORATION CASE NO. PUE-2002-00305

On May 9, 2002, White Oak Power Company, LLC ("White Oak" or "Company"), filed with the State Corporation Commission ("Commission") its application for a certificate of public convenience and necessity to construct and operate an electric generating facility pursuant to §§ 56-46.1 and 56-580 D of the Code of Virginia.

White Oak proposes to construct a 680 MW peaking, electrical power generation facility ("facility") and related piping at a site in Dry Fork, Virginia (within Pittsylvania County), to commence commercial operations in the second quarter of 2004. The facility, as proposed, will consist of four simple-cycle combustion turbine units ("CT"), each with a nameplate rating of 170 MW. Although the primary fuel for the project will be natural gas, the Company seeks permission to burn low nitrogen and low sulfur fuel oil as a back-up fuel source whenever (i) interruptible natural gas transportation is not available, or (ii) the delivered price of gas is greater than fuel oil.

The facility's principal structures will consist of the turbines, a control room, parking, domestic water supply and on-site sanitary waste disposal, switch yards, electrical bus bars, natural gas supply lines and headers, and a fuel oil storage tank with an aggregate capacity of approximately two million net gallons. The Company states that the Facility will operate as a peaking unit. The estimate cost of the Facility is said to be approximately \$260 million.

The facility is proposed to be sited on a 126.3 acre site in Pittsylvania County, Virginia. The site is described as generally located north of State Road 718 and off State Road 1047 within the Chatham-Blairs Magisterial District, and recorded as Parcel No. 11-10-1D in the Pittsylvania County tax records. According to the application the site is located within a mixed rural and suburban residential and agricultural area. It consists of tilled ground and is undeveloped with the exception of an existing power transmission line running roughly north-south across the westerly portion of the site. The Company presently

has a purchase option to acquire the site proposed for this facility.

The facility will be connected with an on-site American Electric Power ("AEP") aerial transmission line and then connect directly to AEP's East Danville substation via a single circuit transmission line. Additionally, the Company's application indicates that the proposed generation facility will require approximately 92,000 gallons of water per day during gas operations and 188,000 gallons of water per day during oil operations. The Pittsylvania Public Service Authority will supply potable water to the project that will be further treated on site prior to industrial use. The Company states that process wastewater generated at the site will be stored in tanks and shipped off-site for disposal. Domestic wastewater will be discharged to an on-site septic system for which the Company will obtain a permit from the State Health Department. Further details concerning the proposed generation facility can be found in the application, which can be obtained or inspected as provided below.

A copy of the application and other materials may be obtained, at no charge, by making a request in writing to counsel for the applicant, Patrick O'Hare, Esq., Reed Smith, LLP, Riverfront Plaza, West Tower, 901 East Byrd Street, 17th Floor, Richmond, Virginia 23219. The application and other materials may also be inspected in the Commission's Document Control Center, Office of the Clerk of the Commission, First Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, during Commission business hours. Copies of the Company's application and other materials may also be inspected at the Pittsylvania County Administrator's Office, 21 North Main Street, Moses Building, Chatham, Virginia during regular business hours.

On or before July 22, 2002, any person who expects to participate as a respondent in this proceeding as provided by the Commission's Rules of Practice and Procedure, 5 VAC 5-20-80 B, shall file with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, an original and fifteen (15) copies of a notice of intent to participate and shall serve a copy on counsel to the Company listed above. Any organization, corporation, or government entity participating, as a respondent must be represented by counsel as required by the Rules of Practice and Procedure, 5 VAC 5-20-30. The Commission's Order for Notice and Hearing gives the

complete procedural schedule and instructions on participation in this case.

A public hearing will be held on October 24, at 10:00 a.m. in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia, to receive comments from members of the public and evidence on the application. Members of the public who desire to comment on the Company's application will be afforded an opportunity to do so at the October 24 public hearing in this case. Persons desiring to participate in this manner should arrive at the hearing location indicated above prior to the start of the hearing. Upon arrival they should notify the Bailiff in the Commission's Courtroom of their desire to speak.

Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing date at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD).

A copy of the Order for Notice and Hearing may be obtained from the Clerk of the Commission. The unofficial text of the order may be viewed at the Commission's website: <http://www.state.va.us/scc/caseinfo/orders.htm>. The Rules of Practice and Procedure and other information may also be viewed on the website.

WHITE OAK POWER COMPANY, LLC

(13) On or before July 9, 2002, the Company shall serve a copy of this Order on the Chairman of the Board of Supervisors of Pittsylvania County, Virginia; the Honorable W. Tayloe Murphy, Jr., Secretary of Natural Resources, P.O. Box 1475, Richmond, Virginia 23218; and Robert G. Burnley, Director, Department of Environmental Quality, P.O. Box 1009, Richmond, Virginia 23240-0009. Service shall be made by first-class mail or delivery to the customary place of business or residence of the person served.

(14) On or before July 22, 2002, the Company shall file with the Clerk proof of the newspaper publication and proof of service required by ordering paragraphs (12) and (13).

(15) The Company may commence site preparation in advance of the Commission's approval of the Company's application herein, subject to the requirements set forth in this Order.

Morrison, Commissioner, CONCURRING:

I concur in the ordering paragraphs of this Order, but disagree with portions of the discussion preceding those paragraphs.